

MINUTES OF REGULAR MEETING
SUGAR CITY COUNCIL
THURSDAY, MAY 9, 2013

Presiding: Mayor Glenn W. Dalling
Meeting Convened at 6:30 p.m.
Prayer: Bruce King
Pledge of Allegiance

Present: Mayor Dalling; Sharon L. Bell, Clerk; Wendy Walker, Treasurer; Councilmembers Bruce King, Lamont Merrill, Vaun Waddell and Burch Drake; Steve Hawkes of Planning & Zoning Commission; Marcie A. Smith; and City Attorney Bill Forsberg.

ALLEY CLOSURE: City Attorney Bill Forsberg said Mayor Dalling asked him to look into the matter of an alley closure in blocks 58, 59 and 60 between Front Street and Railroad Avenue. Sharon provided him with excerpts from the minutes, which included discussion of the alleys from February 12, 1992, through September 1, 1994. The common thread running throughout the city council's discussion was whether to abandon the alley running through those blocks. The council also discussed leasing the alley to the adjoining landowners, with a reservation of the city's right to access. That is where the city's record regarding the alley ended.

Attorney Forsberg's memo states: "The question of whether the conduct of the city in not protecting its interest in these alleys gives rise to a loss of the alleys under a theory of adverse possession or abandonment has been asked. Constitutional law and case law in Idaho make it clear that a person cannot obtain title to land held by a city by adverse possession. The required elements of adverse possession could never be proven. There is in essence no way to pay taxes on city owned property and there is no statute of limitation applicable to a city's claim on its property."

Attorney Forsberg said, "It appears from my review of the minutes that the alleys in question were never vacated or annulled by the city, so they are still the city's property. There is no ordinance on record regarding the vacation or annulment of these alleys. There is no indication that the leases discussed were ever entered into. Absent vacation of the alleys or a lease agreement, the city retains full control over the alleys."

The city attorney's recommendation is not to give away property and also said it is appropriate to advise the landowners.

TRI-CITY WASTEWATER AGREEMENT PROPOSAL: Attorney Forsberg presented a memo on the proposed wastewater agreement between Rexburg, Teton and Sugar City. He said that the current agreement has seven years left on it. The new one has all three entities on it for 20 years. It is a complicated agreement and everyone needs to understand all of it. It is definitely a rough draft and is in no condition to sign. He suggested that the council compare the old and new agreements side by side before it is discussed further. He said the current agreement refers

back to the original agreement between Sugar City and Rexburg. So there is a third agreement that is still in force and he needs a copy of it.

ORDINANCE ENFORCEMENT: Attorney Forsberg's opinion is don't pass laws you can't enforce. He feels that the city should repeal every ordinance that we aren't going to enforce. If we want to enforce them, all we have to do is turn the enforcement of a complaint over to the sheriff's office or to the city attorney. There is a way to enforce the ordinances and when we do it, people respect the boundaries. Generally people appreciate the enforcement of existing laws. The point is, we have laws and they are good. If they are not worth enforcing, repeal them. The mayor thanked Attorney Forsberg for coming.

The mayor asked if there were any corrections to the minutes of the regular meeting held on April 11, 2013. Each councilmember had a copy of said minutes prior to the meeting. It was moved by Councilmember Waddell and seconded by Councilmember Merrill to accept said minutes, with one minor correction; motion carried.

Wendy presented the April reconciliation reports for the General Fund. It was moved by Councilmember Waddell and seconded by Councilmember King to accept the April reconciliation reports for the General Fund; motion carried. Wendy presented the April reconciliation reports for the Utility Fund. It was moved by Councilmember Waddell and seconded by Councilmember Drake to accept the April reconciliation reports for the Utility Fund; motion carried.

Wendy presented the current bills in the amount of \$36,529.74. It was moved by Councilmember King and seconded by Councilmember Waddell to pay the current bills, including \$2,000 in support of "Envision Madison," together with all regular May bills that have not yet been received; motion carried.

PLANNING & ZONING REPORT: P&Z Chairman Steve Hawkes addressed the council.

Two studio apartments (Tucker Adamson): Steve reported that Tucker Adamson is taking care of the property on Front Street that his mother Ruth Adamson owned. There is an old garage on the property with two apartments above. He wants to put two studio apartments below them. It is in an R-2 zone and is not allowed. Steve advised Mr. Adamson that he could apply for a zone change to R-3 and take it to public hearing.

Dividing property (John Hymas): Steve said John Hymas wants to divide two pieces of property: his home property, which is east of the high school for his son to build a house on; and his property on south Railroad Avenue to sell to Grand Teton Storage. Steve discussed the matter with Brent McFadden of Madison County Planning and Zoning. District 7 Health Department will require a separate septic system. Steve will need to write a letter to the county commissioners saying the city approves the division of property in our impact area on the home. There are questions on the business. The mayor's concern is they don't put in a sewer hookup. Steve will send the city a copy of the letter he sends to the county. Planning and Zoning has said, according to the code book, both divisions could be done.

Code book conflicts: Steve said there are different things in the code book that conflict. He suggests cleaning up the code book and change some terminology as well. He

recommended that the city council make written recommendations to the Planning and Zoning Commission on code conflicts they are aware of.

OPEN STORAGE SHED REPORT: Councilmember Merrill reported that he took the estimated size of the 38' x 80' shed and had the lumberyard figure the cost of the materials, and it was estimated to be between \$25,000 and \$18,000. He suggests if we want to pursue it, that we get accurate plans. The mayor asked him to draw up the plans and obtain a firm cost estimate. The mayor said we need to pursue the construction of the building in order to provide storage for equipment and for sand for winter use. In order to locate the new building in the appropriate place, the power pole in the middle of our property needs to be relocated. The mayor reported that the cost of removing the light pole will be approximately \$4,000 and asked for permission to pursue getting the pole relocated.

ENVISION MADISON SIGNIFICANT DATES: A handout was presented that showed upcoming public workshops in the respective areas of the county. On June 18 a workshop will be held at 7 p.m. at the Sugar Salem Junior High. It is most important to the citizens of this area, and the mayor suggested the council encourage attendance.

SUGAR CITY STAKE CLEANUP DAY MAY 29: The mayor asked the council for suggestions of projects for the stake cleanup day. Councilmember Waddell suggested the possibility of the city serving some type of refreshment near the end of the work period.

OLD FARM ESTATES DEVELOPMENT AGREEMENT: The mayor reported that the Old Farm Estates development agreement has been signed and recorded. Ron Arnold, a real estate agent, told Councilmember Merrill that some people in California were investigating the purchase of Old Farm Estates.

DEPARTMENT REPORTS:

COUNCILMEMBER KING:

Web site: Bruce reported that he will bring the new look for the city Web site online and transfer data from the old Web site to it when he gets time. Changes to the new Web site can be made later.

Code changes: Bruce has some minor code tweaks for clarification.

COUNCILMEMBER MERRILL:

LEPC: Lamont said they held the anthrax drill at BYU-Idaho. They reported that a fire displaced 28 people in the trailer court by Basic American Foods. The displaced people spent the night at the Madison Junior High School in emergency beds provided by the Red Cross. Lamont picked up emergency response guidebooks and will get more for the city.

COUNCILMEMBER WADDELL:

Teton Dam Marathon: Vaun reported that the Teton Dam Marathon, which is always on the second Saturday in June, will be June 8, starting at the dam site at 6:30 a.m. and following the usual route. Race officials want volunteers from Sugar City. The mayor is to participate in the awards ceremony at 11 a.m. in Rexburg. We have a banner for the race to hang across the street and the city's flags to stand along Center Street. At present, bringing the half marathon through Sugar City is not being discussed.

COUNCILMEMBER DRAKE:

Business Park corner: Burch reported that the tree and beautification committee

bought three trees for the little area on the southeast corner of the Business Park. This little area is separated by a ditch and forms a little triangle. City employees have installed a water line to the area, and the plan includes developing the sprinkler system, planting the trees and hydro seeding the grass. They would like a picnic table and grass, and would like to develop it within the next year.

MAYOR'S BUSINESS:

Business Park ditch banks and canals, vacant lots: The mayor would like to see the canal bank and the ditch bank around the Business Park cleaned up, and wild rose bushes on the canal bank cut down and replaced with grass, which the city would keep trimmed. These improvements will enable us to complete the walking path around the Business Park. Hopefully, some of the work can be done during the stake cleanup day.

Meeting adjourned at 9:10 p.m.

Signed: _____
Glenn W. Dalling, Mayor

Attested: _____
Sharon L. Bell, Clerk